

ZONING BOARD OF APPEALS IPSWICH, MASSACHUSETTS

Meeting Minutes
February 12, 2015

Approved 5.21.2015
Distributed 5.26.2015

Pursuant to a written notice posted by the Town Clerk and delivered to all Board members, the Ipswich Zoning Board of Appeals held a meeting on Thursday February 12, 2014 at 7:30 p.m. in room 'C' in Town Hall. Members attending were Chairman Robert Gambale, Benjamin Fierro, Roger LeBlanc, Lewis Vlahos, William Page and Associate Member Robert Tragert. Recording Secretary Jennifer Dionne.

Citizen Queries: There were none.

In response to Chairman Gambale's request, all parties agreed to change the order of the Agenda.

Public Hearings:

3 Dix Road - Michael and Dorothy Calandra requests a Special Permit pursuant to Sections XI-J and IX.J for an Accessory Apartment.. Chairman Gambale read the legal notice and opened the public hearing at 7:34 pm.

The Petitioners were present and discussed the intent is to add at most a 900-square foot apartment to their existing home, to care for elderly relatives in this apartment. It would be on the left hand (north side) of the house. They would stop using one bedroom in their house to accommodate the septic tank on their lot. They plan to make it look symmetric with the existing house. The entrance to the apartment would be on the side of the house, and there would be a back yard entrance as well. The lot size is a little over an acre.

Chairman reviewed the seventeen conditions and the Petitioner acknowledged compliance. Discussion took place regarding a second means of egress (currently the second egress door leads to the rest of the house) Mr. Sperber cited building code that does not allow a second egress to intervening spaces.

Petitioners acknowledged compliance with the Building Inspectors recommendations. The Chairman explained an accessory apartment is an allowable use and reviewed the criteria to which the Petitioners agreed.

As there were no other comments from abutters or others the Chairman closed the public hearing.

MOTION:

Mr. Fierro moved the Board grant the Petitioner request for a Special Permit for an Accessory Apartment pursuant to Sections IX-J and XI-J of the Ipswich Protective Zoning Bylaw, subject to hand drawn plans

submitted on 2/12/2015 for the accessory apartment to be built on the north side of the building. Mr. Page seconded, the motion passed unanimously.

2 East Street, also known as the Ipswich Inn. Map 31C – Lot 94; Raymond and Margaret Morley requests the Zoning Board of Appeals to overturn the Building Inspector's decision pursuant to Section II (B) (1) and (2) and III to cease and desist the use of the decks as an extended dining room seasonally; requests the Zoning Board of Appeals to uphold the Building Inspector's determination that the use as an Inn continue; requests the Zoning Board of Appeals to uphold the Building Inspector's decision that the use of the dining room constructed in 2007 be permitted to continue. (Continued from the July, August, September and October meetings)

Attorney Lisa Mead was present representing the Petitioners.

Chairman Gambale read the legal notices and re-opened both public hearings and read a letter of opposition from Louise H. Jewette, 2 Spring Street (hereby incorporated into the record). He also noted the police reports from accidents that occurred outside the property.

Attorney Mead initiated discussion regarding finding the original building permit with the foundation only; definitions in the bylaw defining a Bed and Breakfast and Inn; uses of the deck when it became an Inn.

Lengthy discussion took place between the Board members and Attorneys regarding the configuration of rooms and apartments.

Seven inn guest rooms are located in the primary structure and 1 of which is located in the accessory building at the rear of the property. The property also contains 4 apartments, 3 of which are located in the primary structure and 1 is located in the accessory building and is currently used as the Morley's residence.

Attorney Hoag argued that there is a restaurant being operated in a residential neighborhood, which goes against the bylaw and discussion followed between Attorney Mead abutter Steve Miles and the Board members.

John Schuchardt 1 High Street, House of Peace- spoke in opposition citing case law, zoning ordinance and lack of parking and potential for accidents in the shared driveway between the properties.

Mr. Fierro clarified and reviewed the Petition request before the Board. Mr. Gambale wanted to be clear that in regards to the Boards decision, whichever way it goes, that they do not impose something that would be impossible for the building inspector to try to enforce.

Mr. Leblanc spoke to the occupancy permit; he opined that the use became non-conforming with the zoning change; he opined that key to this ruling is the six year statute of limitations is up. It's an Inn with a certain amount of seating 36 seated or 52 standing; Chairman. Gambale agreed and noted that the applicant could seek a special permit to have these amounts changed.

Discussion ensued on these matters.

Mr. Miles 58 North Main Street spoke to in a request filed with the BOS for a license to have entertainment at the facility; it was initially turned down, but that it was approved that the entertainment had to be inside of the building.

MOTION: Chairman Gamble made a motion to close the public hearing, Mr. Fierro seconded. The motion passed unanimously.

Mr. Fierro reviewed findings with the Board members and discussion took place.

MOTION: Mr. Fierro moved that the Board deny the petition of Sydney Phillips, Craig Allen Hanson and Grace R. Hanson, Mr. Page seconded and the motion passed unanimously.

MOTION: Mr. Page moved that the Board overturn the building inspector's decision to cease and desist use of the dining deck and uphold the decision on the bistro deck. Uphold the building inspectors to continue as an inn and the dining room pursuant to the occupancy numbers, 36 seated or 52 standing inside and outside. Mr. Fierro seconded the motion passed unanimously.

ADJOURN:

As there was no further business, it was moved, seconded and unanimously voted to adjourn at 11:00 p.m.

Respectfully submitted,

Jennifer Dionne

These minutes were approved by the Board on May 21, 2015.